

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|------------------------|---|-----------------|
| FRANK FISCHER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 2:05-CV-00763-B |
| |) | |
| SYSCO FOOD SERVICES OF |) | |
| CENTRAL ALABAMA, INC. |) | |
| |) | |
| Defendants. |) | |

ORDER ON MOTION

Upon notice of *Defendant's Motion to Compel* filed February 23, 2006 (Doc. 6), the undersigned notes that the parties' Report of Rule 26(f) Planning Meeting (Doc. 4, December 13, 2006) has not been acted on due to the ambiguity in judicial responsibility arising from the parties' failure to consent to the Magistrate Judge's jurisdiction or to request reassignment to a District Judge. In this action removed from the Montgomery County Circuit Court on August 10, 2005, the clerk transmitted notices to the Plaintiff, on August 17, 2005, and to the Defendant, on October 4, 2005, of the assignment of this case to a Magistrate Judge and the parties' rights with respect to the assignment.

Without awaiting an order directing their conference to submit a rule 26(f) Report, the parties properly met to discuss and reach consensus on their discovery plan for this litigation. The Rule 26(f) Report expressly recites the resolution of issues regarding plaintiff's resolution and, accordingly, plaintiff counsel's readiness to proceed. While the court has not yet adopted the parties' plan, it is reasonable to expect the parties to comply with their agreed-upon deadlines for not only initial disclosures but also discovery given their

completion cutoff date of June 27, 2006. It is, therefore,

ORDERED that *Defendant's Motion to Compel* filed February 23, 2006 (Doc. 6) is GRANTED to the extent that Plaintiff is DIRECTED to provide by March 10, 2006, both the past-due initial disclosures and responses to interrogatories and document requests.

It is further

ORDERED that Counsel execute and send to the Clerk, for receipt not later than March 3, 2006, *either* the attached form for consent to the Magistrate Judge's exercise or jurisdiction *or* the attached form for reassignment of this case to the District Judge. Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Eleventh Circuit in the same manner as any appeal from any judgment entered in this court. Any party to this lawsuit has the right to consent to, or decline to consent to, the exercise of jurisdiction of a Magistrate Judge, without adverse consequences.

Done this 24th day of February, 2005.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE

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CONSENT TO JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. § 636(c), the undersigned party or parties to the above-captioned civil matter who previously have indicated their consent to the jurisdiction of a Magistrate Judge of this Court, hereby confirm in writing their consent to a United States Magistrate Judge conducting any and all further proceedings in the case, including trial, and ordering the entry of a final judgment.

Date

Signature

Counsel For (**print** name of all parties)

Address, City, State, Zip Code

Telephone Number

DO NOT FILE THIS DOCUMENT ELECTRONICALLY. PLEASE MAIL IT TO:

Clerk, U.S. District Court
P. O. Box. 711
Montgomery, AL 36101

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA

**EXPLANATION OF ASSIGNMENT TO
UNITED STATES MAGISTRATE JUDGE**

This civil case has been randomly assigned to a United States Magistrate Judge of this court. In accordance with 28 U.S.C. § 636(c), the Magistrate Judges of this court are designated to conduct any and all proceedings in a jury or nonjury civil case and order the entry of final judgment upon the consent of all parties to a case. Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Eleventh Circuit in the same manner as any appeal from any judgment entered in this court.

Any party to this lawsuit has the right to consent or decline consent to the jurisdiction of a Magistrate Judge. To exercise your right to consent you should complete the consent form and return it to the Clerk of the Court as indicated in the court's order. Litigants, without concern for any adverse consequences, freely may decline consent to the jurisdiction of a Magistrate Judge. If you decline consent to the jurisdiction of a Magistrate Judge, this case will be reassigned randomly to a District Judge.

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**REQUEST FOR REASSIGNMENT OF CASE
TO A UNITED STATES DISTRICT JUDGE**

The undersigned party hereby declines to consent to the Magistrate Judge's exercise of civil jurisdiction in this case. The undersigned party requests reassignment of this case to a United States District Judge.

Date

Signature

Counsel For (**print** name of all parties)

Address, City, State Zip Code

Telephone Number

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